

Senate Amendment 3334

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1 1 Amend Senate File 344, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 1 6 LIABILITY REFORM
1 7 Section 1. Section 625A.9, Code 2003, is amended
1 8 to read as follows:
1 9 625A.9 EXECUTION ON UNSTAYED PART OF JUDGMENT ==
1 10 SUPERSEDEAS BOND WAIVED.
1 11 1. The taking of the appeal from part of a
1 12 judgment or order, and the filing of a bond as above
1 13 directed, does not stay execution as to that part of
1 14 the judgment or order not appealed from.
1 15 2. If the judgment or order appealed from is for
1 16 money, such bond shall not exceed one hundred ten
1 17 percent of the amount of the money judgment.
1 18 3. Upon motion and for good cause shown, the
1 19 district court may stay all proceedings under the
1 20 order or judgment being appealed and permit the state
1 21 or any of its political subdivisions to appeal a
1 22 judgment or order to the supreme court without the
1 23 filing of a supersedeas bond.
1 24 Sec. 2. Section 668.12, Code 2003, is amended to
1 25 read as follows:
1 26 668.12 LIABILITY FOR PRODUCTS == ~~STATE OF THE ART~~
1 27 ~~DEFENSE DEFENSES.~~
1 28 1. In any action brought pursuant to this chapter
1 29 against an assembler, designer, supplier of
1 30 specifications, distributor, manufacturer, or seller
1 31 for damages arising from an alleged defect in the
1 32 design, testing, manufacturing, formulation,
1 33 packaging, warning, or labeling of a product, a
1 34 percentage of fault shall not be assigned to such
1 35 persons if they plead and prove that the product
1 36 conformed to the state of the art in existence at the
1 37 time the product was designed, tested, manufactured,
1 38 formulated, packaged, provided with a warning, or
1 39 labeled.
1 40 2. Nothing contained in this section subsection 1
1 41 shall diminish the duty of an assembler, designer,
1 42 supplier of specifications, distributor, manufacturer
1 43 or seller to warn concerning subsequently acquired
1 44 knowledge of a defect or dangerous condition that
1 45 would render the product unreasonably dangerous for
1 46 its foreseeable use or diminish the liability for
1 47 failure to so warn.
1 48 3. An assembler, designer, supplier of
1 49 specifications, distributor, manufacturer, or seller
1 50 shall not be subject to liability under a theory of
2 1 civil conspiracy unless the person knowingly and
2 2 voluntarily entered into an agreement, express or
2 3 implied, to participate in a common plan with the
2 4 intent to commit a tortious act upon another. Mere
2 5 membership in a trade or industrial association or
2 6 group is not, in and of itself, evidence of such an
2 7 agreement.
2 8 Sec. 3. Section 668A.1, subsection 1, Code 2003,
2 9 is amended to read as follows:
2 10 1. In a trial of a claim involving the request for
2 11 punitive or exemplary damages, the court shall
2 12 instruct the jury to answer special interrogatories
2 13 or, if there is no jury, shall make findings,
2 14 indicating all of the following:
2 15 a. Whether, by a preponderance of clear, and
2 16 convincing, and satisfactory evidence, the conduct of
2 17 the defendant from which the claim arose constituted
2 18 willful and wanton disregard for the rights or safety
2 19 of another.
2 20 b. Whether the conduct of the defendant was
2 21 directed specifically at the claimant, or at the
2 22 person from which the claimant's claim is derived.
2 23 c. Whether, by a preponderance of clear and
2 24 convincing evidence, the conduct of the defendant from
2 25 which the claim arose constituted actual malice.

2 26 Sec. 4. NEW SECTION. 668A.2 DEFINITIONS.
2 27 As used in this chapter, the following terms shall
2 28 have the following meanings:
2 29 1. "Clear and convincing evidence" means evidence
2 30 which leaves no serious or substantial doubt about the
2 31 correctness of the conclusions drawn from the
2 32 evidence. It is more than a preponderance of
2 33 evidence, but less than beyond a reasonable doubt.
2 34 2. "Malice" means either conduct which is
2 35 specifically intended by the defendant to cause
2 36 tangible or intangible serious injury to the plaintiff
2 37 or conduct that is carried out by the defendant both
2 38 with a flagrant indifference to the rights of the
2 39 plaintiff and with a subjective awareness that such
2 40 conduct will result in tangible serious injury.
2 41 Sec. 5. NEW SECTION. 668A.3 AWARD OF PUNITIVE OR
2 42 EXEMPLARY DAMAGES == PROOF == STANDARD.
2 43 Punitive or exemplary damages shall only be awarded
2 44 where the plaintiff proves by clear and convincing
2 45 evidence that the plaintiff's harm was the result of
2 46 actual malice. This burden of proof shall not be
2 47 satisfied by proof of any degree of negligence,
2 48 including gross negligence.
2 49 Sec. 6. APPLICABILITY. This division of this Act,
2 50 relating to liability reform, applies to cases filed
3 1 on or after July 1, 2003.

3 2 DIVISION II

3 3 WORKERS' COMPENSATION

3 4 Sec. 7. Section 85.34, subsection 2, unnumbered
3 5 paragraph 1, Code 2003, is amended to read as follows:
3 6 Compensation for permanent partial disability shall
3 7 begin at the termination of the healing period
3 8 provided in subsection 1. The compensation shall be
3 9 in addition to the benefits provided by sections 85.27
3 10 and 85.28. The compensation shall be based only upon
3 11 the extent of the disability related to the injury
3 12 received and upon the basis of eighty percent per week
3 13 of the employee's average spendable weekly earnings,
3 14 but not more than a weekly benefit amount, rounded to
3 15 the nearest dollar, equal to one hundred eighty-four
3 16 percent of the statewide average weekly wage paid
3 17 employees as determined by the department of workforce
3 18 development under section 96.19, subsection 36, and in
3 19 effect at the time of the injury. The minimum weekly
3 20 benefit amount shall be equal to the weekly benefit
3 21 amount of a person whose gross weekly earnings are
3 22 thirty-five percent of the statewide average weekly
3 23 wage. For all cases of permanent partial disability
3 24 compensation shall be paid as follows:

3 25 Sec. 8. Section 85.34, Code 2003, is amended by
3 26 adding the following new subsection:
3 27 NEW SUBSECTION. 7. APPORTIONMENT. When an
3 28 employee suffers successive work-related injuries or
3 29 illnesses, an employer is not liable for that portion
3 30 of an employee's disability that is caused by any
3 31 preexisting injury or illness that is separate and
3 32 discrete from the injury or illness for which
3 33 compensation is claimed. Evidence that an employee
3 34 has received a prior award for payment of benefits or
3 35 entered into a prior settlement of any claim arising
3 36 under this chapter or chapter 85A, 85B, or 86 creates
3 37 a presumption that the employee has suffered a
3 38 preexisting work-related injury or illness that is
3 39 separate and discrete from the injury or illness for
3 40 which benefits are claimed and that the extent of
3 41 disability caused by that preexisting injury or
3 42 illness has been determined. An employee who suffers
3 43 from a disability caused in part by a preexisting
3 44 injury or illness that is separate and discrete from
3 45 the injury or illness for which compensation is
3 46 claimed, such that the employer is not liable for that
3 47 portion of the employee's disability, shall receive
3 48 compensation for the employee's disability at the
3 49 employee's weekly benefit amount as provided in this
3 50 section plus an additional ten percent.

4 1 Sec. 9. APPLICABILITY. This division of this Act,
4 2 relating to workers' compensation, applies to an
4 3 injury occurring on or after July 1, 2003.

4 4 DIVISION III

4 5 FINANCIAL SERVICES

4 6 Sec. 10. Section 537.2502, subsections 3 and 6,

4 7 Code 2003, are amended to read as follows:
4 8 3. A delinquency charge shall not be collected
4 9 under subsection 1, paragraph "a", on an installment
4 10 ~~which that~~ is paid in full within ten days after its
4 11 scheduled or deferred installment due date even though
4 12 an earlier maturing installment or a delinquency or
4 13 deferral charge on an earlier installment may not have
4 14 been paid in full. For purposes of this subsection,
4 15 payments associated with a precomputed transaction are
4 16 applied first to current installments and then to
4 17 delinquent installments.

4 18 6. A delinquency charge shall not be collected
4 19 under subsection 4 on a payment ~~which associated with~~
4 20 a precomputed transaction that is paid in full on or
4 21 before its scheduled or deferred due date even though
4 22 an earlier maturing payment or a delinquency or
4 23 deferred charge on an earlier payment has not been
4 24 paid in full. For purposes of this subsection,
4 25 payments are applied first to amounts due for the
4 26 current billing cycle and then to delinquent payments.

4 27 Sec. 11. Section 537.2601, subsection 1, Code
4 28 2003, is amended to read as follows:

4 29 1. ~~Except as provided in subsection 2, with With~~
4 30 ~~respect to a credit transaction other than a consumer~~
4 31 ~~credit transaction, the parties may contract for the~~
4 32 ~~payment by the debtor of any finance or other charge~~
4 33 ~~as permitted by law. Except with respect to debt~~
4 34 ~~obligations issued by a government, governmental~~
4 35 ~~agency or instrumentality, in calculating any finance~~
4 36 ~~charge contracted for, any month may be counted as~~
4 37 ~~one-twelfth of a year, but a day is to be counted as~~
4 38 ~~one three-hundred sixty-fifth of a year.~~

4 39 DIVISION IV

4 40 UNEMPLOYMENT COMPENSATION SURCHARGE

4 41 Sec. 12. Section 96.7, subsection 12, paragraph a,
4 42 Code 2003, is amended to read as follows:

4 43 a. An employer other than a governmental entity or
4 44 a nonprofit organization, subject to this chapter,
4 45 shall pay an administrative contribution surcharge
4 46 equal in amount to one-tenth of one percent of federal
4 47 taxable wages, as defined in section 96.19, subsection
4 48 37, paragraph "b", subject to the surcharge formula to
4 49 be developed by the department under this paragraph.
4 50 The department shall develop a surcharge formula that
5 1 provides a target revenue level of no greater than six
5 2 million five hundred twenty-five thousand dollars
5 3 annually for calendar years 2003, 2004, and 2005 and a
5 4 target revenue level of no greater than three million
5 5 two hundred sixty-two thousand five hundred dollars
5 6 for calendar year 2006 and each subsequent calendar
5 7 year. The department shall reduce the administrative
5 8 contribution surcharge established for any calendar
5 9 year proportionate to any federal government funding
5 10 that provides an increased allocation of moneys for
5 11 workforce development offices, under the federal
5 12 employment services financing reform legislation. Any
5 13 administrative contribution surcharge revenue that is
5 14 collected in calendar year ~~2002~~ 2003, 2004, or 2005 in
5 15 excess of six million five hundred twenty-five
5 16 thousand dollars or in calendar year 2006 or a
5 17 subsequent calendar year in excess of three million
5 18 two hundred sixty-two thousand five hundred dollars
5 19 shall be deducted from the amount to be collected in
5 20 the subsequent calendar year 2003 before the
5 21 department establishes the administrative contribution
5 22 surcharge. The department shall recompute the amount
5 23 as a percentage of taxable wages, as defined in
5 24 section 96.19, subsection 37, and shall add the
5 25 percentage surcharge to the employer's contribution
5 26 rate determined under this section. The percentage
5 27 surcharge shall be capped at a maximum of seven
5 28 dollars per employee. The department shall adopt
5 29 rules prescribing the manner in which the surcharge
5 30 will be collected. Interest shall accrue on all
5 31 unpaid surcharges under this subsection at the same
5 32 rate as on regular contributions and shall be
5 33 collectible in the same manner. Interest accrued and
5 34 collected under this paragraph and interest earned and
5 35 credited to the fund under paragraph "b" shall be used
5 36 by the department only for the purposes set forth in
5 37 paragraph "c".

5 38 Sec. 13. Section 96.7, subsection 12, paragraph d,
5 39 Code 2003, is amended to read as follows:
5 40 d. This subsection is repealed July 1, ~~2003~~ 2006,
5 41 and the repeal is applicable to contribution rates for
5 42 calendar year ~~2004~~ 2007 and subsequent calendar years.
5 43 Sec. 14. EFFECTIVE DATE. This division of this
5 44 Act, concerning the unemployment compensation
5 45 surcharge, being deemed of immediate importance, takes
5 46 effect upon enactment.

5 47 DIVISION V
5 48 ECONOMIC DEVELOPMENT

5 49 Sec. 15. NEW SECTION. 15E.18 CITIES, COUNTIES,
5 50 AND REGIONS == SITE PREPARATION FOR TARGETED ECONOMIC
6 1 DEVELOPMENT.

6 2 1. For purposes of this section, "region" means a
6 3 group of two or more contiguous counties that
6 4 establishes a single, focused economic development
6 5 effort.

6 6 2. A city, county, or region, subject to the
6 7 approval of the property owner, may designate an area
6 8 within the boundaries of the city, county, or region
6 9 for a specific type of targeted economic development.
6 10 The specific type of targeted economic development
6 11 shall be one of the following:

- 6 12 a. Manufacturing.
- 6 13 b. Light industrial.
- 6 14 c. Warehouse and distribution.
- 6 15 d. Office parks.
- 6 16 e. Business and commerce parks.
- 6 17 f. Research and development.

6 18 3. A city, county, or region that designates an
6 19 area for a specific type of targeted economic
6 20 development may apply to the department for purposes
6 21 of certifying the area as a preapproved development
6 22 site. The department shall develop criteria for the
6 23 certification process.

6 24 4. Prior to a specific project being developed, a
6 25 city, county, or region designating the area for
6 26 targeted economic development pursuant to this section
6 27 may apply for and obtain appropriate licenses,
6 28 permits, and approvals for the type of targeted
6 29 economic development project desired for the area.

6 30 Sec. 16. NEW SECTION. 15E.19 REGULATORY
6 31 ASSISTANCE.

6 32 1. The department of economic development shall
6 33 coordinate all regulatory assistance for the state of
6 34 Iowa. Each state agency with regulatory programs for
6 35 business shall maintain a coordinator within the
6 36 office of the director or the administrative division
6 37 of the state agency. Each coordinator shall do all of
6 38 the following:

- 6 39 a. Serve as the department of economic
6 40 development's primary contact for regulatory affairs.
- 6 41 b. Provide regulatory requirements to businesses
6 42 and represent the agency in the private sector.
- 6 43 c. Monitor permit applications and provide timely
6 44 permit status information to the department of
6 45 economic development.
- 6 46 d. Have the ability to require regulatory staff
6 47 participation in negotiations and discussions with
6 48 businesses.

6 49 e. Notify the department of economic development
6 50 regarding proposed rulemaking activities that impact a
7 1 regulatory program and any subsequent changes to a
7 2 regulatory program.

7 3 2. By January 15 of each year, the department of
7 4 economic development shall submit a written report to
7 5 the general assembly regarding the provision of
7 6 regulatory assistance by state agencies.>

7 7 #2. Title page, by striking lines 2 through 7 and
7 8 inserting the following: 7 9 liability reform, workers' compensation, financial
7 10 services, unemployment compensation employer
7 11 surcharges, and economic development, and providing an
7 12 effective date.>

7 13 SF 344.H

7 14 ec/es/25